MR. GOURLAY'S CASE,

BEFORE THE

LEGISLATURE,

WITH HIS

SPEECH,

DELIVERED ON WEDNESDAY, JULY 1, 1858.

IN TWO PARTS.

TORONTO:
PRINTED AT THE GLOBE BOOK AND JOB OFFICE.

1858.

PREFATORY ADDRESS.

To Members of the Legislative Assembly.

TORONTO, July 20th, 1858.

GENTLEMEN :—I was honoured with a hearing at your bar ; but, in no speech could my complicated affairs be unravelled, nor the miseries of 40 years of persecution be pictured. Nevertheless, it was well to appear, face to face, before my adversaries, and assert facts which they cannot contradict.

In this publication, you will see my speech as it was spoken, together with important details which will enable you more decidedly to maintain truth and justice. The cause is yours ; and, the question is, shall the Report of 1841 be sustained against the "*Minute in Council.*" It is your duty to uphold the Report, while I expose the falacies of the "*Minute in Council.*"

It has been proposed to bring in a bill for my relief ; but, I would humbly submit, whether it would not be better, in the meantime, to address His Excellency the Governor General, confirming the main resolutions of 1841, viz.:—

"*In order that the Crown may repudiate the transactions by which the Petitioner has been persecuted to his ruin ; and, that the Legislature may declare his sentence of banishment null and void, and cause him to be compensated for the losses he has sustained by the unwarrantable exercise of authority. In the meantime, that some allowance be made to him to defray his personal expenses while in attendence before the Legislature, defending the rights of a British subject.*"

Regarding my losses, I beg leave to say that these cannot be immediately ascertained. I wish you to understand that the compensation should not be drawn from the taxes, but from the avails of the Crown,—seeing that it was from the misconduct of crown officers that the mischief arose.

Regarding "expenses while in attendance before the Legislature" it is different. You will find, on perusal of the following pages, that I have been detained in Canada these last twelve months by palpable wrong ; and I can prove that, through many years, I have been annoyed in like manner while, in duty, defending the rights of a British subject. The arrears of my pension have been offered, but these I have declined to receive ; and, I can shew that my expenses, while in attendance before the Legislature, are greatly in excess.

When Lord Elgin first came to Canada as Governor General, Lord Chief Justice Campbell, unasked by me, and from pure friendship, wrote to his Lordship strongly remonstrating against my cruel treatment. In consequence, a report was sent home to Earl Grey on the subject, which Lord Campbell communicated to me. That report assumed, as correct, the odious "*Minute in Council*" all along complained of ; and I, therefore, would have nothing to do with the report, although Lord Elgin hinted that payment to me might be increased. You, gentlemen, will readily allow, that, after such transaction, my WILL cannot be moved; and, with utmost respect,

I have the honour to remain,

Your obedient humble servant,

ROBT. F. GOURLAY.

PETITIONS.—SESSION, 1858.

To the Honourable The Commons of Canada, in Parliament assembled.

The Petition of Robert Fleming Gourlay,

Humbly Sheweth :—

That, in the year 1856, the Report to your Honourable House of a Committee regarding your Petitioner, was communicated to him in Scotland,

That, seeing matter in the Report highly injurious to his interests and feelings, he left Scotland in the month of August of the same year, and came to Canada, hopeful of success.

That, he petitioned your Honourable House last Session, praying to be heard, personally, at the bar of Parliament, without success.

That, the business being more and more important, your Petitioner has remained here in hope of still procuring a hearing ; and, now earnestly entreats that the same may be granted without further delay.

And, he will ever pray.

ROBT. F. GOURLAY.

Ceres, Mount Elgin, }
March 6, 1858. }

Ceres, Mount Elgin, March 1, 1858.

Dear Sir,—You are now, I presume, at your post in Parliament ; and, I call to mind our failure last year to get enquiry into my case, of which you received from me printed records.

You asked if I meant to remain in Canada, and, I told you that I had erected a house on my land ; and, here I am with my daughter,—ready to go to Toronto when required ; but should desire to be detained there as short a time as possible for the completion of my business.

Please say, in course, what should be done.

Yours truly,

ROBT. F. GOURLAY.

The Hon.. W. Hamilton Merritt.

(Duplicate, March 15.)

Neither replied to—Mr. Merritt being in England.

To the Honourable—the Commons of Canada in Parliament Assembled.

The Petition of Robert Fleming Gourlay,

Humbly Sheweth :—

That, a day was appointed by your Honourable House,—viz., June 2nd, for hearing your Petitioner at the bar ; but, on that day, he was unable to attend from ill-health. He has now made an effort to reach Toronto, and entreats that he may be indulged with an early hearing,—his health being precarious, and his business vitally important to himself.

And, he will ever pray.

ROBT. F. GOURLAY.

Rossin House, }
June 22, 1858 }

Entrusted to the Right Honourable, the Speaker.

(*Petition to the Legislative Council and Assembly.—See page* 16.)

MR. GOURLAY'S CASE BEFORE THE LEGISLATURE.

HOUSE OF ASSEMBLY.

FRIDAY, May 21, 1858.

The Speaker took the chair at three o'clock.

MR. R. F. GOURLAY.

Mr. MUNRO moved that Robert Fleming Gourlay, Esq., be heard at the bar of this House, in his own defence, on Wednesday, the 2nd June.

Mr. MACKENZIE supported the motion. He said that Mr. Gourlay had done good service to the country when Upper Canada was young, but had been requited with ill usage. On his return to London he had published the best account of Canada that had ever appeared. He was as true to the British Crown as any man that ever breathed. That such a man should have to complain of wrongs done him, and that at eighty years of age he should be denied a hearing at the bar of the House would be harsh and cruel.

Atty. Gen. MACDONALD said that a man could not be heard at the bar, if there was nothing against him. Any claims he had to prefer could best be made by a written statement.

Hon. J. S. MACDONALD said the House had already atoned for any wrongs Mr. Gourlay had suffered. They had given him a pension of £50, and had gone as far as it was possible to go. He did not think the time of the House should be occupied with hearing him at the bar.

Mr. FOLEY said that a real, full, and substantial measure of justice had not yet been done to Mr. Gourlay. He was at one time most unjustly dealt with by being banished from the country without having committed a crime worthy of banishment. For what was in those days held to be a crime, was now acknowledged as an effort on his part to gain for the people of Canada those liberties which they now enjoyed. There still stood against him the sentence pronounced upon him illegally, unconstitutionally, and improperly, and all he asked was the reversal of that unjust sentence, so far as this House was concerned. He (Mr. Foley) thought this request should be granted.

Hon. Mr. SICOTTE admitted the injustice done to Mr. Gourlay, but did not think the course now proposed was the proper one to set the wrong right.

Mr. BROWN supported the motion for hearing Mr. Gourlay at the bar, and read extracts from the report of the Committee of the House of Assembly, in 1841, prepared by Dr. Dunlop. The report stated that Mr. Gourlay visited Canada in 1817—that he became aware of the existence of various abuses, and proposed that a commision should be appointed to proceed to Great Britain to have those abuses rectified—that he published a pamphlet which, by those in power, was considered to have a seditious tendency—that he was put upon his trial at Kingston for sedition, and acquitted—that he was again tried at Brockville, with a similar result—that he was afterwards arrested, and kept for five weeks in gaol at Niagara, awaiting his trial, during the dog-days, which so completely prostrated him in body and mind, that he was unfit to conduct his defence, and, being convicted, was banished from the Province for life, on the pain of death if he returned. On this report the House of Assembly reversed the sentence and granted him a pension. But Mr. Gourlay was not satisfied with this, and said—"I do not want mercy but justice. I do not want to have the sentence merely reversed, but to have it declared that it was unjust from the beginning, that I may not go down to the grave with this stain resting on my children." Mr. Gourlay was now old and feeble, although at one period a man of much vigour, and was not likely to detain the House at any length, and he (Mr. B.) thought it would be ungracious on the part of the House to refuse his request.

Hon. Mr. Sicotte said that if the member for Toronto was of opinion that Mr. Gourlay was unjustly condemned, and that something further was necessary to be done, instead of moving that he be heard at the bar, he should introduce a Bill.

Mr. Brown said that any such action should proceed from the Crown. If he introduced a Bill, it would be an act of hostility to the Government, complaining that they had not done Mr. Gourlay justice. Would the Government say that they were prepared to grant what Mr. Gourlay asked?

Hon. Mr. Sicotte replied in the negative.

Mr. Dorion thought that justice had not been done to Mr Gourlay in the words of the report of the Committee of the House of Assembly. That report recommended that the Crown should repudiate the proceedings against Mr. Gourlay, and that Parliament should declare the sentence pronounced against him to be null and void. This was a very different thing from a pardon which supposed an offence. He thought probably the best thing would be for the friends of Mr. Gourlay to bring in a Bill, or to move an address recommending the Government to bring in such a bill.

Hon. J. S. Macdonald had no wish to prevent Mr. Gourlay from getting justice, but he did object to giving so much importance to this affair, as to occupy the time of the House by hearing him at the bar. He read the several proceedings of the House of Parliament which had taken place through a long course of years, and contended that the House had fully considered the whole subject. The Government, too, had pardoned Mr. Gourlay, and had shown their sense of the wrong done him by offering a pension. What could be done more? Let the precise thing which Mr. Gourlay wanted be stated.

Mr. Mackenzie said that Mr. Merritt —no visionary—had made a similar motion to this in the last Parliament, and was lost by only one vote. He did not think the House understood the case of Mr. Gourlay. There was a feeling at one time to keep out the Irish Catholics from this country, and an Act, the 44th King, was passed to enable any man to be driven away from the country on the simple order of any member of the Legislature, or magistrate. He did not know how many Irish Catholics were driven away under this bill; but at last Mr. Gourlay came, and wanting to make some improvements he was sued for libel, and at last, when no jury could be found to convict, was banished under the 44th of the King. Mr. Gourlay was a man of honour, a graduate of the Edinburgh University, and not like people to whom money was everything. He, therefore, refused to accept their pension, and required that the stain of crime should be wiped away from his memory. Let the House hear the old man by all means. It would occupy very little time, and would be doing a generous action.

The motion was carried by a vote of 41 to 38.

Yeas.—Messrs. Allan, Bell, Biggar, Brown, Buchanan, Bureau, Burwell, Campbell, Chapais, Christie, Clark, Cook, Daly, Dorion, Foley, Galt, Gaudet, Gauvreau, Gould, Hartman, Harwood, Hebert, Holmes, Jobin, Laframbois, D. A. Macdonald, Mackenzie, McDougall, McGee, McKellar, Mowat, Munro, Notman, Panet, Patrick, Piche, Walker Powell, W. Scott, Short, Tett, and Wright—41.

Nays.—Messrs. Alleyn, Baby, Benjamin, J. Cameron, M. Cameron, Carling, Caron, Cayley, Atty. Gen. Cartier, Cimon, Connor, Coutlee, Desaulniers, Dionne, Dufresne, Ferguson, Gill, Hogan, Labelle, Lacoste, Le Boutillier, Lemieux, Loranger, Macbeth, Atty. Gen. Macdonald, J. S. Macdonald, McCann, Playfair, Robinson, Sol. Gen. Rose, Sicotte, Simard, S. Smith, Somerville, Tasse, Thibaudeau, Wallbridge, and Webb—38.

The announcement of the numbers was received with cheers by the Opposition.

Mr. Brown.—The government have been beaten, and Mr. Gourlay is to be sent for. (Laughter.)

Mr. Foley gave notice that on Wednesday he would introduce a Bill to declare the unjust sentence of banishment passed upon Mr. Gourlay, null and void.

MR. GOURLAY'S SPEECH.

PART FIRST.

Mr. Speaker, and Gentlemen of the Legislative Assembly,—

Aware of the value of your time, I shall be brief; and trust, that, on your part, allowance will be made for my age and infirmities. Sir: I appear before you, not as a suppliant—not to beg anything of any one ; but to defend the rights of a British subject—rights which have been outraged in my person, these last forty years. Yes, Sir, it is 40 years since I was arrested in Upper Canada, on false charges, while acting in behalf of the people's most essential privilege—that of meeting by deputy for correction of error. The pamphlet, which I hold in my hand, (*Chronicles of Canada*, No. I.) bears record of this, and much more highly important for reflection at the present time. It tells of my being tried, and honourably acquitted: of a law, then enacted, to put down liberty, which my acquittal had established; and it tells, how, after liberty was put down, I was thrust into prison and banished, "*illegally, unconstitutionally, and without the possibility of excuse or palliation.*" It further tells, how, after I was banished, this iniquitous law was repealed; its sole object—my destruction,—being accomplished; and it tells, how, after the lapse of six years, every one connected with me was acquitted of evil intention but myself. It records the rancour and malignity of a man who was the chief instrument of my ruin—the bitter enemy of popular right—a man who was not mollified by the tears and entreaties of 30,000 of his fellow subjects. Yes, that man's malignity towards me, remained unabated after six years ; and, is yet, I doubt not, unmoved.

"Forgiveness, to the injured doth belong,
He never pardons, who hath done the wrong."

Sir, how comes it that I have been unable to get this pamphlet into circulation by a bookseller authorised to put on it his own price ?—this pamphlet which contains more important matter than any other published in Canada ? Shall I say because truth is ever at a low ebb, where power is dominant. In this pamphlet, we find it asserted in 1826, that my "*principles*" were "*republican in the extreme.*" How was it in fact ?—So early as 1799, His Majesty gave me a Captain's Commission as Commandant of Volunteers ; and, seven years after that, I offered, in presence of a military corps, to cross the English channel and take Paris, while Bonaparte was fighting the Russians in Poland. How was it, Sir, that during the late rebellion, I remained in Cleveland five months openly discouraging that rebellion ; and, was thrice thanked by Sir Francis Bond Head for doing so ? Sir, I then felt confident that it was in my power to have severed this Province from the British Empire ; and why did I not ?—because, all along, I have looked to a liberal connection between Canada and Britain, as the best pledge for the world's freedom ; and union with the United States to be avoided above all things. Yes, sir, after long residence in both countries, that remains as my settled opinion. Nevertheless, let it not be imagined, from this opinion, that I am unfriendly to the United States ; or, from the narrow views of my opponents, that I am republican in the *bad* sense. I believe that Providence emancipated the States for the special deliverance of mankind from oppression ; and that the *res publica* never can be too highly prized. In fact, in the *good* sense, I am republican in the extreme ; but, Sir, the evil propensities of our nature need to be held in check till pure

Christianity is all-powerful, and everywhere triumphant—a consummation which time alone can realize. Sir, I am attached to no party; never was, and never will be. While yet a young man, I devoted my life to bettering the condition of the labouring classes, and to that I am spell-bound. It was in that cause I became zealous for reform in Canada, and, even now, see how this Province may be essential to success,—see that it may yet prove the best field for the advance of civilization and rescue of the poor from oppression. I have, Sir, watched the progress of Canadian Government; and what have I witnessed?—No good whatever. The rebellion! What was that but an effervescence of angry passions stirred up by disregard of justice and common sense? Responsible Government! What has that effected? an unblushing waste of public money, and a monstrous debt where all should have been clear. It is asked in a newspaper of this day (the *Colonist*)—"*By what policy are we to be governed? By what principles shall we be guided? To whom shall we look for the measures that are needed to save the country from ruin?*" Look, Sir, at this pamphlet, and read these words written by me last November:—"*I would not sit in such* (this House) *save but to move for a Convention, in order to drawing up a new Constitution, urgently called for?*" I was in Canada while a new Constitution was drawn up in England by Lord John Russell. No individual but myself seemed to care for the result. I advised meeting in Convention, but nothing could then be heard for the bawlers for Responsible Government. Now, I advise the same, standing where I am. Having said this much, I shall proceed to the more special business which has brought me here,—begging of you to receive, for inspection of members, the pamphlet* so often referred to, together with this other* (the *Neptunian*, No I.,) containing testimonials in my favour by some of the most eminent men in Scotland, which will sustain my character, and silence calumny.

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* *Copies of these two pamphlets were also presented to the Governor General.*

MR. GOURLAY'S CASE BEFORE THE LEGISLATURE.

NO. 1.

Winter before last my health was such that I despaired of getting to Canada ; and to maintain my claims on the Government, I gave my man of business in Edinburgh documents relating thereto in order to draw up a memorial ; and this he despatched to the Speaker of the Legislative Assembly, together with duplicates addressed to several Members : one to Mr. Merritt ; and there ensued the following correspondence :—

Toronto, 28th June, 1856.

My Dear Sir,—I have merely time to inform you that the Legislative Assembly have passed an address to his Excellency to grant you a full pardon, and remove the stain under which you have erroneously supposed remain—for no man in Canada believed you rest under any imputation ; however I hope the accompanying documents will prove satisfactory, Yours,

W. H. MERRITT.

R. Gourlay, Esq.

My Dear Sir—I forgot to mention that you are at liberty to draw your pension whenever you please to send a power of attorney to your agent here to draw the money, which I take it for granted you will now accept.

In haste yours,

W. H. MERRITT.

Toronto, Leg. Ass., 29th June, 1856.

Legislative Assembly,
Wednesday, 16th April, 1856.

Resolved—that the petition of Robert F. Gourlay be referred to a Select Committee composed of the Hon. Mr. Merritt, Hon. Sir Allan N. McNab, Mr. Sol. Gen. Smith, Mr Roderick McDonold, Hon. J. S. Macdonald, Hon. Mr. Robinson, and Hon. Mr. Morrison, to examine the contents thereof, and to report thereon, with all convenient speed ; with power to send for persons and records.

Committee Room, June 12, 1856.

Committee met—Hon. Mr. Merritt in the Chair.

The Chairman submitted the draft of a report, which was agreed to, and ordered to be presented to the House.

Your Committee have taken the matter of the petition referred to them into their consideration, and beg leave to recommend that an humble address be presented to His Excellency the Governor General, drawing His Excellency's attention to the recommendations contained in the report of Select Committees of your Honourable House in the years 1841 and 1842, in favour of the petitioner, who was cruelly banished from the Province in 1819, for alleged seditious practices, and praying His Excellency to sanction the introduction of a bill for the remission of the sentence, or exercise the Royal clemency for restoring to him his political rights, by a free pardon for the alleged offences for which he has been convicted under a law which has since been repealed. The whole, never theless, humbly submitted.

Mr. Merritt moves that an humble address be presented to his Excellency the Governor General, drawing his attention to the recommendations contained in the Report of Select Committees of this House in the years 1841 and 1842, in favour of Robert F. Gourlay, who was banished from the Province in 1819, for seditious practices, and praying His Excellency to sanction the introduction into the Legislature of a bill for the remission of the sentence aforesaid, and for the removal of all civil disabilities resulting from the same, or, by an exercise of the Royal clemency, to restore the said Robert F. Gourlay to his political rights, by a free pardon for the offence for which he has been convicted, under a law long since repealed.

Seconded by Mr. Holton.

90, Princess Street, Edinburgh,
July 17, 1856.

My Dear Sir,—Your letter, with Report of the Legislative Assembly, reached me two days ago ; and, that there may be no mistake, are, with this, printed.

You take it for granted that I will now accept the money (pension) which certainly I shall not,—neither pension nor pardon, however free,—neither now nor ever.

Acting from my own impulses and resolves, contrary to the opinion of everyone, you will readily discard any thought of disrespect to yourself. When you presented for me a petition, May 1846, I was assured of your zeal in my favour ; now, I am re-assured of it

The Report of 1841 I hold by, and that alone ; nor shall I acknowledge a single tittle of it to be erroneous, or such as cannot be acted on. The Report of 1842 was no sooner known to me than protested against in the strongest manner. The Report of 1841 declared my imprisonment and banishment, 1819, "illegal, unconstitutional, and without the possibility of excuse or palliation," and desired that the Crown should repudiate the transactions by which I was persecuted to my ruin. But what followed,and how does it stand now, when only insult is added to injury? I do not say intentional ; but, by me, nothing else has been experienced, first and last.

In the year 1818, after two honourable acquittals on jury trial, no man in Canada had better prospects than mine; but from that time onward, no man alive has suffered so cruelly in mind, body, and estate. Thank God, hope has not yet abandoned me ; and should life be spared, I may yet be in Canada more fully to plead my cause.

Yours faithfully,
ROBT. F. GOURLAY.

This correspondence was printed in Edinburgh, and distributed among my friends in Scotland : copies, also, were despatched to Members of the Committee, and some friends in Canada.

My health being re-established, I sailed from Liverpool, accompanied by one of my daughters, 13th August, 1856 ; landed at Philadelphia, 29th, and proceeded to Canada. At London, I had the correspondence reprinted with addition as follows :—

London, Canada West,
Sept. 23rd, 1856.

People of Canada !

Here I am ! Will you countenance me ? Without the public ear, I am helpless ; with it, confident of going down to the grave triumphant.

Your aged Friend,
ROBT. F. GOURLAY.

Continuing to travel in Canada—copies of this re-print were distributed by the way. An hour after reaching Montreal, a note was received of which the following is a copy :

"For Mr. Gourlay.

"Mr. Ferres, M. P., an admirer of Mr. Gourlay's perseverance in obtaining justice."

Having for a time established myself at Woodstock, I wrote to Mr. Merritt,—requesting his advice ; and the following correspondence ensued :—

St. Catherines, 17th Feb., 1857.

Dear Sir,—My father, being very much occupied desires me to say that your favour of the 14th inst. from Woodstock, would have been replied to before this,had he not been absent from St. Catherines.

With reference to what you say in your letter about "what is best to be done now before the Legislature," he thinks you should send in a petition for your pension in arrear, and accept; or to visit Toronto during the second week of the session, when he will confer with you personally on the subject.

Your obt. servant,
W. H. MERRITT.

Woodstock, March 11th, 1857.

My Dear Sir,—Your son's letter of 17th February, written by your desire, was received by me in course. He says "you should send in a petition for your pension in arrear, and accept it, or visit Toronto during the second week of the session, where he will confer with you on the subject."

You are probably unaware that I am lame,—my thigh-bone having been fractured in 1852, and never knit, while, this month, I am 79 years of age, and feeble accordingly,—otherwise I should have, ere now, been with you. As it is, I shall send in a Memorial regarding my case.

The doings of the Assembly, 1842, 1846, and lastly 1856, make me dread further communication ; for, on every occasion, my case seems to have been completely misunderstood. I shall, however, in my Memorial, try to throw light on it.

Some think the present Ministry will be out-voted ; and an appeal made to the people. In that case, my Memorial will stand as a record ; and I feel assured that you will do your best to get me justice, either now or afterwards.

Yours truly,

ROBERT F. GOURLAY.

N. B.—In the Woodstock *Sentinel*, you may see, weekly, a "Narrative" by me.

R. F. G.

To the Hon. Wm. Hamilton Merritt, *M. P. P.*

Woodstock, April 9, 1857.

My Dear Sir,—Four weeks have elapsed since I promised to send you a Memorial. I did write one ; but then concluded to retain it ; for, so many have been presented to the Assembly, on the same subject, that another would only increase confusion.

In Parliamentary Records may be seen my Petition, 1842 ; and after that another ; then, four, 1846. The Memorial of last year was written by my man of business in Edinburgh, when, from ill health, I despaired of ever again being in Canada. Only look to the result of that Memorial,—my being offered a pension, refused again and again :—Also, a pardon, after the Assembly had declared my *imprisonment, and banishment* 1819, "*illegal, unconstitutional, and without the possibility of excuse or palliation.*" Could anything be more preposterous, —to say the least of it ?

It was recommended by the Assembly that what I did for the Province during the rebellion "*should neither be overlooked nor forgotten ;*" but what of that ?—while rebels and murderers have been honoured and rewarded, what has been done for me ?

The Assembly recommended that my "*expenses should be defrayed while in attendance before the Legislature defending the rights of a British subject.*" I have all along defended these rights ; but what has been paid to me ? The Administrator paid me fifty pounds, 1841, and the Governor General sent me a year's pension to Boston, which I handed over to a Printer of my Records.

I am ever willing to receive payment for expenses in this case ; but no sum, however great, will be accepted in lieu of my rights as a British Subject.

Think of what is here said ; and let this letter be laid on the table of the Assembly, that others may read and reflect.

Yours, very sincerely,

ROBERT F. GOURLAY.

Woodstock, April 16, 1857.

My Dear Sir :—Seeing from newspapers this day, that Parliament is again in session, and that various petitions have been presented, may I ask if my letter to you of 9th inst., has been read, and laid on the table. Some one has hinted to me that, in consqeuence of a second burning of the Parliament House at Quebec, the records in my case may not be forthcoming. If so, let me be informed by a few lines in course that I may furnish copies.

Yours, faithfully,

ROBERT F. GOURALY.

(*Not Replied to.*)

Unto the Right Honourable the Legislative Assembly of Canada.

The Petition of Robert Fleming Gourlay, Esquire, a native of Scotland, formerly resident in Canada and still a Landholder in said Province,

Humbly Sheweth :

That the Petitioner, in the year 1817, having acquired property in Canada, was led to interest himself in obtaining remedial measures for certain abuses then in existence, and thereby exposed himself to certain hardships, the nature and extent of which have

been already enquired into and ascertained on a representation made by the Petitioner to the Legislative Assembly of Canada by a Committee of said Honourable Body, whose report bears date the 11th September, 1841. The Remit made by the Honourable Assembly of date 25th August 1841, and Report thereon, dated, as aforesaid, were of the following purport :—

" Legislative Assembly,
Monday, 25th Aug., 1841.

" Ordered that the Petition of R. F. Gourlay, Esq., presented to the House on the Twenty-eighth day July last be referred to a Committee composed of Messrs. Dunlop, Viger, Neilson and Steel, to examine the contents thereof, and to report thereon, with all convenient speed, with power to send for persons, papers, and records."

Report of Select Committee to whom was referred the Petition of Robert F. Gourlay, Esq., have the honour to report: (B.)

Your Committee having investigated the Petition, and examined witnesses in relation to the same, and procured affidavits from persons cognizant of the matters and allegations contained therein, find the following facts to be fully proven:

The Petitioner, Mr. Gourlay, first visited Canada in the year 1817, where he had acquired property by marriage, and also by purchase, and commenced statistical enquiries into the capabilities of the Province, in the course of which he became aware of the existence of various abuses. He then proposed that a Commission should be appointed to proceed to Great Britain to have these abuses rectified, and held public meetings for that purpose, accounts of the proceedings at which were published in a pamphlet which was generally approved of by the people of the Province, but, by those in power, was considered as having a seditious tendency, and he was therefore arrested, and put upon his trial for sedition at Kingston, but, being acquitted he was again tried at Brockville, with, however, a similar result.

He then had to proceed to New York on business, and on his return, was imprisoned in the gaol of Niagara, where ill-treatment in being confined in a cell for five weeks in the dog days (previously six months in gaol) debarred from the sight of or communication with his friends, his counsel or the magistrates of the District, threw both his body and mind into such a state as to render him totally unfit to defend himself upon his trial or even to comprehend his arraignment. The result of the trial was that he was banished from the Province for life under pain of death should he return,—his alleged crime being, that he neglected to quit the country upon the order of a single magistrate (two Legislative Councillors) acting under an unjust construction of an unconstitutional statute most illegally exercised.

Your Committee do not think it necessary to comment on such proceedings.

From the evidence adduced, which will be found in the appendix to this report, your Committee are of opinion that the arrest and imprisonment of the Petitioner in Niagara in 1819 was illegal, unconstitutional, and without the possibility of excuse or palliation. That, debarring him from an interview with his friends or his counsel was also illegal, unjust, and unconstitutional. That, preventing magistrates of a County or District from visiting the gaol of that County or District is a violation of all propriety, and if persisted in would lead to the most pernicious consequences.

Your Committee are further of opinion that his trial and sentence when in a state of bodily and mental weakness from the sufferings he had undergone, which prevented him from defending himself, was unjust, unconstitutional and cruel.

Your Committee cannot but express a hope that your Honourable House will do the petitioner that justice which has been so long denied to him, and pass an address to his Excellency the Governor General, declaratory of the above opinions,in order that the Crown may repudiate the transactions by which the Petitioner has been persecuted to his ruin : and that the Legisla-

ture may declare his sentence of banishment null and void, and cause him to be compensated for the losses he has sustained by the unwarrantable exercise of authority. In the mean time, that some allowance be made to him to defray his personal expenses while in attendance before the Legislature defending the rights of a British subject.

Your Committee are in possession of proofs that during the late rebellion, when the Petitioner was resident in the United States, His Excellency Sir Francis Bond Head, then Lieutenant Governor of Upper Canada, derived from him the most important intelligence of the movements of the brigands, then organizing for an attack on the Province. This, your Committee humbly suggest should neither be overlooked nor forgotten—all which is humbly submitted.

(Signed) WM. DUNLOP, *Chairman.*

Kingston, 11th September, 1341.

That, in the year 1842 said Report having been taken into consideration by the Legislature, they awarded to the Petitioner a pension of £50 per annum, thereby recognizing the accuracy of their Committee's Report, and justice of his claim ; but they did not, in accordance with the recommendation of their Committee pass any address to His Excellency the Governor General, in order that the Government might repudiate the transactions by which the Petitioner had been persecuted to his ruin, and that the Legislature might declare his sentence of banishment null and void.

That the Petitioner, who has ever preserved unswerving loyalty to his Sovereign and fidelity to his country, was deeply grieved at this omission. He protested at the time that full effect ought to have been given by the Legislature to the Report of their Committee, and that he should be restored to that position as a member of the community, of which, it has been found, that he had been unjustly deprived.

That such may have been the intention of the Legislature in awarding him a pension, for if he had been guilty of disloyalty or sedition in their opinion he cannot suppose this would have been granted to him. But, as it was restoration of honour rather than pecuniary advantage which he sought, he did not then accept, nor has he ever drawn any part of the pension thus awarded him, excepting a small part which he took in repayment of expenses incurred by him.

That the Petitioner does not wish to revive in any shape the question of pecuniary compensation. But he has not drawn payment of his pension nor does he feel that he can do so, excepting in conjunction with the recall of the sentence, against him, which has not hitherto been granted in conformity with the Report of your Committee. He has repeatedly endeavoured to obtain this, but unsuccessfully, from causes which he thinks are now removed ; and it is for this purpose he now again respectfully addresses your Honourable House.

That the Petitioner is now very far advanced in years, but is, on that account even more desirous to have annulled the sentence passed on him, as he may now say admittedly with injustice, so that he may not leave on record against him such a sentence, but may transmit his name to his descendants unsullied by any charge of disloyalty or sedition. At this distance of time, it seems to the Petitioner that with the recorded expression of your Honourable House in his favour, this sentence may be annulled without any feeling on the part of the Government that this reflects on the administration of justice when it was pronounced, for he need not point out that many matters, which were received at one time as of constitutional necessity, are now considered to have been attended with injustice to the subject. He therefore again approaches your Honourable Assembly and prays the Honourable Legislative Assembly again to take the Report of the Committee of Assembly of 11th September 1841, above quoted, into consideration, and to give effect to said Report by annulling or by adoption of such measures as will enable the Assembly to annul the sentence of banishment passed upon the Petitioner, the said Robert Fleming Gourlay, in the year 1819.

And your petitioner will ever pray.

ROBT. F. GOURLAY.

Woodstock, May 15th, 1857.

People of Canada !

Eight months have elapsed since I solicited your countenance ! Now, my whole case has been laid before you ; and, I again ask,—"Will you countenance me ?"—With that I feel confident of going down to the grave triumphant.

Your aged Friend,

R. F. GOURLAY.

N.B.—A copy of the above was sent to Members of Assembly.

(PETITION TRANSFERRED FROM PAGE 5.)

To the Honourable the Legislative Couuci of Canada.

The Petition of Robert Fleming Gourlay,

Humbly Sheweth :—

That your Petitioner has owned land in the Township of Dereham fifty years.

That, in the year, 1817, he visited Canada and said Township, when it contained only one settler.

That, in the year 1840, he again visited Dereham, and gave names to the several lots of his land before many witnesses.

That, in the year, 1841, he had a house erected on one of his lots, and resided therein till driven off with ague.

That, owing to many causes it was not in his power to settle on his land till 1856, when he came from Scotland, and added to the house formerly erected, in which he now resides.

That, he found the greater part of his land occupied by squatters, much valuable timber cut down, and some carried away.

That, although all the squatters had, before your petitioner's arrival declared in writing—regulaly witnessed that he was the rightful owner, one of them refused possession, and had to be ejected by law process.

That, this law process being prolonged, gave rise to doubts regarding your petitioner's right to the land, and stirred up others of the squatters to become troublesome, in so much that three of them hold possession in spite of him : refuse to pay rent ; and, in many ways, injure his property.

That, your petitioner has caused suits to be commenced in order to ejectment ; but, in the face of notorious facts, these squatters persist in wrong.

That, so early as 1822, your petitioner pointed out evils regarding landed property in Canada which needed correction ; and which he begs now to refer to in his Statistical Account of Upper Canada, as, therein, may be seen a palpable measure for improvement.

That, the unspeakable benefit which has accrued to Ireland from an Act of Parliament relating to incumbered estates, is universally acknowledged, and should stimulate legislators here to like ends.

Your Petitioner therefore entreats that the whole of these premises may be gravely considered, and that a Committee be forthwith appointed by your Honourable Council to investigate the same in all their bearings.

And he will ever pray,

ROB. F. GOURLAY.

Ceres, Mount Elgin, April 17, 1858.

Note.—*The above presented by the Honourable Adam Fergusson, and a similar petition presented to the Legislative Assembly, by Dr. Connor.*

MR. GOURLAY'S CASE BEFORE THE LEGISLATURE

No. 2.

103 Adelaide St., May 25th, 1857.

May it Please Your Excellency :—I have this day been told that a pardon has been granted me ; and lose no time in protesting against any application for such a grievous wrong.

Yours respectfully,

ROBT. F. GOURLAY.

Sir Edmund W. Head, Bart.

Governor's Secretary's Office,
Toronto, 26th, May 1857.

Sir,—I am directed by His Excellency the Governor General to acknowledge your note of May 25th.

His Excellency does not exactly understand whether it is the issue of the pardon referred to, or the application for it which you protest against as a " grievous wrong."

If the latter be the case, His Excellency desires me to state at once, he has received no application for a pardon which professes to be authorized by yourself, and therefore no protest on your part is necessary to obviate any misconstruction of your conduct.

If by your " protest " you mean to object to the issue of a pardon, that is a point on which His Excellency intends to be guided by his constitutional advisers, proceeding on grounds of a public, rather than a private nature.

As it appears you have been told that a pardon is already issued, it is well to add that you have been misinformed.

I have the honour to be, Sir,

Your obedient Servant,

R. T. PENNEFATHER,
Governor's Secretary.

Robt. F. Gourlay, Esq.,
103 Adelaide St.

To His Excellency, Sir Edmund W. Head, *Bart.*

103 Adelaide Street,
Toronto, May 26th, 1857.

Sir—I have just now received a letter of this date, written by direction of your Excellency, in answer to mine of May 25, and stating that your Excellency does not exactly understand whether it is the issue of the pardon referred to, or the application for it, which I protest against as a " grievous wrong."

I lose no time in explaining as follows :—At Woodstock, May 15, the editor of the *Sentinel* called on me with a slip cut from a newspaper, stating that a pardon was announced as about to be issued last Wednesday, by Attorney General Macdonald, in Assembly." I forthwith authorized the editor to state that " *I considered any offer of pardon as insult ;*" and herewith I inclose the *Sentinel* in which this appeared.*

Yesterday, Mr. ——— ———, who boards here, told me that a pardon was recorded in the Government office, where he is a clerk ; and I lost no time in addressing your Excellency on the subject.

In my first scroll, I protested against it as an insult ; but, on further reflection, used the words " grievous wrong."

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* Robert Gourlay.—This eminently useful and very benevolent man has lived to triumph over all his enemies. One of the most disinterestedly loyal men in the Queen's dominions, he was long the victim of the Family Compact, but a free pardon was announced as about to be issued, last Wednesday, by Attorney General Macdonald, in Assembly. Thus it is that the friend of Chalmers, of Leslie, of Lord Campbell, has been spared by Providence to a great age, to see an act of tardy justice done by the people of whom he was an early benefactor.—*Message.*

Note.—We are authorized to state, that Mr. Gourlay considers any offer of Pardon an insult.—[Ed. *Sentinel.*

As your Excellency is to be guided in this matter by your Constitutional advisers, permit me to say that the Legislative Assembly, 1841, declared my *imprisonment and banishment*, 1819, "*illegal*" *unconstitutional, and without the possibilit, of excuse or palliation*," and recommended that my "*expenses should be paid while defending the rights of a British Subject.*" I have received some £120.

I left England, 1817, to come to Canada, having then, perhaps, the best regulated farming establishment in the kingdom, and could count on an income of £500 sterling a year. I came here and lost all by false imprisonments.

Your Excellency's obedient servant,

ROBT. F. GOURLAY.

To His Excellency Sir EDMUND W. HEAD, *Bart., Governor General, &c. &c. &c.*

103 ADELAIDE STREET,
Toronto, June 3, 1857.

SIR,—Last week, I had a Memorial presented to the Legislative Assembly of which the following is a copy :—

"*To the Legislative Assembly of Canada :*

The Memorial of Robert Fleming Gourlay humbly sheweth : (A.)

That, your Memorialist had a Petition presented to your Honourable House last year, while he was in Scotland. (That, he was informed, in answer to said Petition that "*The Legislative Assembly had passed an address to His Excellency to grant a full pardon to him.*" Also that he "*was at liberty to draw his pension.*"

That, your Memorialist replied from Scotland that, he would receive neither pension nor pardon ; and, that, if life was spared, he would be in Canada more fully to plead his cause.) That, he left Scotland, August 11th, sailed from Liverpool 13th, and landed at Philadelpha 29th, 1856.

That, he reached London, Canada West, September 1856, and had the whole transaction printed, soliciting countenance from the people. That, he has ordered the whole—reprinted—to be sent to each member of your Honourable House, and now entreats to be heard, personally, at the Bar of your Honourable House.—And he will ever pray,

ROBT. F. GOURLAY.

Toronto, May 29th, 1857.

SIR,—I have been informed that my Memorial, above copied out, was declared disrespectful to the Legislative Assembly, inasmuch, as it militated against what the Assembly had last year declared. This being the opinion of the Speaker of the Assembly, I have only your Excellency to appeal to, and beg leave to state as follows,—denying that I have been disrespectful in any way, or at any time, to the Assembly.

My Petition of 1856 was composed and penned by Mr. John Cook, writer to the Signet, Edinburgh, my man of business, while, from ill health, I was doubtful of ever again being in Canada. Its main object was that my claims on the Government of Canada might be maintained, in case of my death ; and, more especially, that no stain should attach to my character—thence to be injurious to my family. My feelings, as to this last object, were so intense that I signed the Petition laid before me by Mr. Cook, deeming all pecuniary advantage as dust in the balance compared with what affected my honour ; and had what the Petition prayed for been then granted I would have sat down contented. But, the very contrary was the result. An offer of pardon, as your Excellency will at once allow, implied guilt on my part ; and, without a moment's hesitation, I replied from Scotland, that I would receive neither pension nor pardon ; and, that, if life was spared, I would be in Canada to plead my cause. I did, indeed, forthwith prepare to cross the Atlantic ; and, in spite of remonstrances from friends, who thought it impossible for me at my time of life, to make good my resolution, set out with one of my daughters ; and am here this day, thank. God, to maintain truth, and justice,—to prove that the Speaker of the Legislative Assembly has grossly erred, and to appeal to your Excellency.

It may be recollected by your Excellency that, in conversation, I stated that all along the Assembly had erred in my case, from 1842 till now, and I shall proceed to say how it did so.

The report, in my case, was laid before Lord Sydenham by unanimous vote of the Assembly, 1841, and acknowledged by his signature two days before his death. The Administrator of the Government paid me £50, to account for expenses ; and, with that, as confirmation that all was right, I left Kingston, intending to proceed to England,—there to submit the whole to the supreme Government. Expecting that the new Governor General would land at Quebec, I abode there two weeks, in order to pay my respects to His Excellency, and acquaint him with my case. Then, however, it was reported that he would land at Boston, and thence proceed to Kingston. I returned to that place, where I was served with a minute of Council denying what the Assembly had affirmed, and thus it became necessary for me to remain in Canada till parliament was again in session, that the Assembly might maintain its positions. When met, I petitioned, in order to this ; but instead of doing so, I was representhd as an object of pity ; and, as such, a pension was granted. Instantly I left Canada, and took my stand at Boston, there to state my case, and be so situated that I could either go to my family in Scotland, or return to Canada as occasion might require. There, I remained two years and seven months : printed all transactions, and furnished copies to the Government at home and abroad,—occasionally visiting Canada while parliament was in session ; but, till this hour. have experienced nothing but disappointment ; and now finally, approach your Excellency, calling for enquiry as to truth and justice. Now,that I am here, I desire that the Report of 1841 be adhered to; thatall subsequent proceedings be set aside and that, in the meantime, I be paid expenses while defending the rights of a British subject—pledging myself to prove that the Report of 1841 is, in all respects, correct.

I have the honour to be,

Your Excellency's obedient servant,

ROBT. F. GOURLAY.

To the Honourable the Speaker.

103 Adelaide Street,
Toronto, June 4, 1857.

Sir,—Annexed is copy of a Memorial which was presented for me, by Mr. Merritt, (see above) and, which he told me you said "*was disrespectful to the House, inasmuch as it militated against what the Assembly had, last year, declared.*"

I have appealed to the Governor General, and offered to prove that you, "*the Speaker of the Legislative Assembly, have grossly erred.*"

Under circumstances, I deem it fair to you and myself, to acquaint you on the matter ; and to ask what you have to say in your defence,—trusting that you will yet admit of my being heard at the bar, when you find that you have erred.

I have the honour to be, Sir,

Your obedient servant,

ROBT. F. GOURLAY.

(*Not replied to.*)

Governor's Secretary's Office.
Toronto, C. W., June 4, 1857.

Sir,—I am directed by His Excellency the Governor General to acknowledge your letter of June 3. His Excellency will lose no time in referring this letter to the consideration of the Executive Council ; but he desires me to remark, that it is no part of his duty to question or control the opinion of the Speaker of the Legislative Assembly as to the tenor of any petition or mem orial addressed to that Body.

I have the honour to be, Sir,

Your obedient servant.

R. T. PENNEFATHER.

R. F. Gourlay, Esq.

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103 Adelaide Street,
Toronto, June 4, 1857.

Sir,—I have just now received reply to my letter of yesterday, addressed to your Excellency ; and have to say that my letter was written by advice of Mr. Merritt, who presented my memorial which the Speaker complained of.

Mr. Merritt told me that he had consulted the Attorney General on the

subject ; and that he said that a Bill would be prepared, in order to my relief in the way I should choose ; so I understood it.

Your obedient servant,

ROBT. F. GOURLAY.

N. B.—Mr. Munro, M. P. P., was present when Mr. Merritt advised.

R. F. G.

Sir EDMUND HEAD, &c. &c.

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103 Adelaide Street,
June 5, 1857.

MY DEAR SIR,—Mr. Munro, the bearer, will tell you that I wrote to the Speaker yesterday—told him of his error, and asked to be heard, for myself, at the Bar of the House ; and now I have no doubt I shall be heard if you move for it.

Mr. Munro, or any other, will, I doubt not, second your motion. Do, therefore, thus far, oblige me.

Yours, &c.

ROBT. F. GOURLAY.

The Hon. WM. HAMILTON MERRITT.

MY DEAR SIR,—I went out to see you this moment and lost my chance to move : therefore you need not remain. I will move it at 3 o'clock this day.

W. H. MERRITT.

ROBT. GOURLAY, Esq.,
Tuesday 11 o'clock, (June 9th.)

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103 Adelaide Street.

DEAR SIR,—I have received your note, and shall be ready at a moment's notice to speak for myself.

ROBT. F. GOURLAY.

The Hon. WM. HAMILTON MERRITT.

Tuesday, 9th June, 1857.
3 o'clock, P. M.

Petition received and read :—

Of *Robert Fleming Gourlay*, praying that he may be heard personally at the bar of the House upon his case.

Of *Charles E. Chadwick* and others, of the village of Ingersoll, county of Oxford ; praying this House to take into consideration the case of ROBERT FLEMING GOURLAY.

Hon. Mr. MERRITT moved that ROBT. F. GOURLAY, Esq., be heard at the bar of this House at 5 o'clock this day, in person, as prayed for in his petition.

YEAS : Messrs. Aikins, Bellingham, Biggar, Bourassa, Brown, Chaffers, Chapais, Jean B. E. Dorion, Dostaler, Fergusson, Ferrie, Frazer, Gill, Gould, Hartman, Roderick McDonald, Masson, Matheson, Merritt, Niles, Patrick, Scatcherd, and Yielding,—23.

NAYS.—Messrs. Baby, Benjamin, Brodeur, Burton, Attorney General Cartier, Cauchon, Church, Fellowes, Thos. Fortier, Fournier, Galt, Gamble, Huot, Lumsden, Macbeth, Attorney General Macdonald, Angus Morrison, Price, Rolph, Sol. Gen. Ross, James Ross, Shaw, Sol. Gen. Smith, Stevenson, and Terrill,—25.

Sir Edmund W. Head, Bart.

103 ADELAIDE STREET,
Toronto, June 12th, 1857.

SIR,—Referring to my note of 4th inst. I now beg to be informed whether or no, I have more to expect in reply to my letter addressed to your Excellency, dated June 3rd.

I have the honour to be,
Your Excellency's obt. servant,

ROBT. F. GOURLAY.

Governor's Secretary's Office,
Toronto, June 12th, 1857.

SIR,—I am directed by the Governor General to inform you that your letter of the 3rd was, on the 4th instant, transferred by His Excellency to the Provincial Secretary, in order that it might be laid before the Executive Council, for their advice thereon.

I have the honour to be, Sir,
Your obedient Servant,

R. T. PENNEFATHER.

R. F. GOURLAY, Esq.

Sir EDMUND W. HEAD, Bart.

103 ADELAIDE STREET,
Toronto, June 12th, 1857.

SIR,—In answer to my note of this day, I am told that my letter of the 3rd was on the 4th transferred by your Excellency to the Provincial Secretary, in order that it might be laid before the

Executive Council for their advice thereon ; and I shall expect to learn from your Excellency what that advice is.

I should have left this city yesterday but for the indisposition of my daughter. We hope to get away to-morrow, and any communication after our departure may be addressed for me at Ingersoll.

I remain your Excellency's
obedient servant,

ROBT. F. GOURLAY.

To the inhabitants of Dereham, Norwich, Woodstock and Ingersoll.

INGERSOLL, June 30, 1857.

GENTLEMEN,—My best thanks are due to you for your prompt attention to my wishes—petitioning Parliament in my favour.

The Petitions to the Legislative Assembly, from Dereham and Norwich, were presented by Dr. Cook ; that from Woodstock was entrusted to Mr. Matheson, and that from Ingersoll to Mr. Brown.

The Petitions to the Legislative Council were presented by the Hon. Adam Fergusson and the Hon. John Hamilton—all in good time ; for my sole object was to have them put on record.

Permit me, now, to draw attention to the accompanying correspondence with the Governor General, the Speaker of the Assembly, and Mr. Merritt. That correspondence is important—although my interest was out of the question—of high importance to the public at large. It demonstrates the miserable way in which matters are managed in the Colonial Parliament ; and how vital interests are stifled and set aside.

In my "CASE BEFORE THE LEGISLATURE." —a copy of which was sent to each of the Legislators, from the Governor General downwards, all previous matter was made clear ; and remarks are now made only on what is now before us.

On getting to Toronto, I drove directly to No. 103 Adelaide Street, recommended as a comfortable lodging house ; and there I found, as fellow-boarders, three Members of Assembly—Dr. Cook, Mr. Gould, and Mr. Munro, the chief clerk in Mr. Armour's Book Store, and a clerk in one of the Government Offices—with all of whom I enjoyed friendly converse during my stay in Toronto of 27 days.

The correspondence begins with my protest against a PARDON—the very thing which I refused to accept, in my letter to Mr. Merritt, July 17, 1856—the very thing which caused me to cross the Atlantic, here to refuse and protest against—the very thing I chiefly went to Toronto—there to be heard personally at the Bar of the Legislative Assembly, to protest against ; and to show cause for protesting against.

My fellow boarder, clerk in the Government office, tells me that the pardon is in that office recorded ; and that same day I complain to the Governor General. His Excellency thereon, sends for the said Clerk and the Attorney General ; and for two hours, all three are closetted together on the subject. My friend, the clerk, gets alarmed and is offended with me for informing His Excellency—me, who have not an idea of doing wrong to any one, and whose duty it was, on my own account, instantly to protest against what I considered a grievous wrong.

Four days after this, my petition is presented to the Assembly by Mr. Merritt, which the Speaker objected to, "*as it militated against what the Assembly had last year declared,*" he objects, and the petition is set aside !—so that I have come from Scotland in vain. I came from Scotland to correct a "*grievous wrong*" done to me by the Assembly ; but, the Hon. the Speaker denies me the liberty to put the Assembly right ! The Speaker is so very great a person that he is above treating me as a gentleman—will not honour me with reply—will not hear me, though I tell him he has "*grossly erred.*"

I appeal to the Governor General ; but that too, is in vain, "it is no part of his duty to question or control the opinion of the Speaker." So, here ends that imbroglio.

Same day, I inform Sir Edmund Head that Mr. Merritt had consulted the At-

torney General ; and, that he, the Attorney General, said, " a Bill would be prepared in order to my relief."

Next day, (June 5) I write to Mr. Merritt—having no doubt of a hearing.

After that, four days, Mr. Munro comes to me with the petition objected to by the Speaker,—saying that if I would write one, leaving out certain words which Mr. Merritt had marked with a pencil, he—Mr. Merritt—would present the petition, and get me a hearing at the bar of the Assembly. I told Mr. Munro that this would take from the petition all that was most important, but I cared not provided the object was obtained ; so the petition, thus gutted, (see above, in brackets) was written and given to Mr. Munro, to be handed to Mr. Merritt.

Same day, I was ready in the House, in the forenoon, to be heard at the Bar : but Mr. Merritt " lost his opportunity." I was again ready in the afternoon, when Mr. Merritt moved, and a debate ensued ; Mr Merritt asked for me, half an hour's hearing—Mr. Scatcherd said that ten minutes would do ; but no : the votes cast me out—25 to 23.

I myself doubted not of a hearing till the Attorney General stood up in opposition—holding in his hand the gutted petition, and exposing its nakedness ! !

God save the Queen, and the Collective wisdom of Canada ! ! !

ROBT. F. GOURLAY.

MR. GOURLAY'S CASE BEFORE THE LEGISLATURE.

(*Concluded.*)

No. 3.

To His Excellency Sir William Eyre.

KINGSTON, July 13, 1857.

SIR,—A month has elapsed since I was informed that my letter of 3rd June, addressed to the Governor General was "transferred by His Excellency to the Provincial Secretary, in order that it might be laid before the Executive Council for their advice thereon," and I now beg to be informed by your Excellency, what that advice is—addressing for me to the care of the Hon. John Hamilton.

Having come from Scotland last August on this business especially, you will be sensible that there ought to be no further delay in settling it, and the accompanying printed papers (Case before the Legislature) will fully explain every circumstance.

I have the honour to be your Excellency's obedient servant,

ROBT. F. GOURLAY.

(Duplicate July 20.)

Governor's Secretary's Office.
Toronto, July 22, 1857.

SIR,—I am directed by His Excellency the Administrator of the Government, to acknowledge the receipt of your letter of the 13th inst., and to inform you that the case is still before the Executive Council.

I have the the honour to be, Sir,

Your obedient servant,

R. T. PENNEFATHER.

Gov. Secretary.

R. F. GOURLAY, Esq., Kingston.

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103 Adelaide Street,
Toronto, July 25, 1857.

SIR,—Under date July 22, I was informed at Kingston, by direction of Your Excellency, that my "CASE *is still before the Executive Council*," and I have now to say, that I have come here to await decision—and remain,

Your Excellency's obedient servant,

ROBT. F. GOURLAY.

Lieut-Gen. Sir WILLIAM EYRE, K. C. B.

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103 ADELAIDE STREET,
Toronto, July 30, 1857.

Mr. Gourlay presents his compliments to Sir William Eyre. As his Excellency may wish to be acquainted with Mr. Gourlay's case now before the Executive Council, he accompanies this with publications containing all particulars, —begging that these may be returned after perusal.

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103 ADELAIDE STREET,
July 31, 1857.

SIR,—Having waited here for a decision six days, allow me to keep in mind that, my *personal expenses were to be paid while in attendance before the Legislature, defending the rights of a British subject.* This the Council can do forthwith; and then take its own time to decide.

It has elsewhere been stated that I had received £120 to account of expenses; and since then fourteen years have elapsed, during which time I have never ceased to defend the rights of a British subject. This will, so far, enable your Excellency to judge what is now due to me on the score of expenses. As health and other engagements call me from Toronto to-morrow, may I beg the favour of reply in the course of this day.

I have the honour to be,

Your Excellency's obedt. servant,

ROBT. F. GOURLAY.

Sir W. EYRE, K. C. B.

Government House,
Toronto, July 31, 1857.

Dear Sir,—I am desired by His Excellency, Sir William Eyre, to acknowledge the receipt of your letter of this day's date, to his address, and also to thank you for sending His Excellency a copy of the "Chronicles of Canada," which he will read with interest and return to you.

I am, dear Sir,
Your obedient servant,
J. G. IRVINE, A. D. C.

Robert Gourlay, Esq., &c.

Queenston, August 8, 1857.

Sir,—Your Excellency has in possession my publications, viz. "Chronicles of Canada"—"The Neptunian"—and my "Case before the Legislature"—all printed with the same object of defending the rights of a British Subject, and establishing my claims on the Government.

I have now to beg that these documents may be retained for reference by the Government.

As your Excellency is only in temporary authority, I have no wish to push the main question to a conclusion; but, I do appeal to your honour, as a gentleman, whether I am fairly treated in getting no reply to my letter of July 31; and of which a duplicate is annexed.

Your Excellency's most obedient
and very humble servant,
ROBT. F. GOURLAY.

Sir William Eyre, K. C. B.

Government House, Toronto,
August 10th, 1857.

Sir,—I am desired by His Excellency Sir Wm. Eyre, to acknowledge the receipt of your letter of 8th inst.

The publications to which you refer are in his Excellency's possession, and he is in the course of reading them; but His Excellency is not in a position, at present, to furnish you with any decision on the matters referred to him, but which have been laid before Council.

I have the honour to be, Sir,
Your obedient Servant,
J. G. IRVINE, A.D.C.

R. F. Gourlay, Esq.

Kingston, Canada, July 11th, 1857.

Sir,—You may remember that on my first interview with your Excellency last October, I spoke of communicating with the Colonial Minister, on the subject of emigration, and establishing a regular system at home and abroad; which as yet has not been done, though more and more needed.

While in England it would be well to think of it, and at any time I shall frankly submit my opinions and schemes,—which during many years have engaged my attention.

I beg leave to submit my case before the Legislature, (printed) and remain your Excellency's very obedient servant,

ROBT. F. GOURLAY.

Sir Edmund W. Head.

(A duplicate despatched ten days after to the Right Hon. Mr. Labouchere.)

London, August 4, 1857.

Sir,—I have the honour to acknowledge your letter of July 11, with its contents.

Anything of a public nature transmitted to the Colonial Minister during my absence from Canada, should be transmitted through his Excellency the Administrator of the Government.

I have the honour to be, Sir, your obedient servant,

E. W. HEAD.

Robert Gourlay, Esq.

Mount Elgin, September 25, 1857.

Sir,—You see from the prefixed printed correspondence, that the Governor General refers me to your Excellency.

You have in possession, "*Chronicles of Canada*," "*The Neptunian*," and my "*Case before the Legislature*"—all printed by me. You will find, in the Library of the Legislature, my "*Statistical Account of Upper Canada*," 3 volumes; and two pamphlets—one "*a Manual of Worship*," submitted to Her Majesty,—the other, "*a Record of Emigration Societies*." These, perused with attention, will speak for my schemes, principles, and opinions; and, with all their faults, are still valuable. From these, you will be convinced of my zeal

for the good of Canada and the human family ; and, you will be at a loss to conceive, as I am, how it comes about that the present ministry are unfriendly to me—how they should have denied me a hearing at the bar of Parliament—how the Executive Council should delay decision on my case ; and, how no reply is yet made to my letter of June 3, which was referred to the Executive Council by the Governor General.

I have been in very feeble health the last two months, or you should sooner have heard from me. The cooler air has now restored some degree of energy ; and, I beg leave to ask when there is to be an end of my cruel treatment by the Government !

I have the honour to be,
Your Excellency's obedient serv't.
ROBT. F. GOURLAY.

Sir WILLIAM EYRE, K. C. B.

Governor's Secretary's Office,
Toronto, Sept. 30, 1857.

SIR,—I am directed by His Excellency the Administrator of the Government to acknowledge the receipt of your communication, dated, Mount Elgin, Sept. 25th.

His Excellency without giving any opinion upon the question under consideration of the Executive Council, or upon the schemes or principles contained in your published works, is quite satisfied from what he has read of them, that " zeal for the good of Canada and the human family" is a powerful motive of your conduct.

I have the honour to be,
Sir, your obedient serv't.
H. COTTON.
In the absence of the Governor's Secretary.

R. F. GOURLAY, Esq., &c.

P. S.—I beg to add that your publications were returned to you on the 5th instant, to your address in Adelaide Street, Toronto. It would appear from part of your present letter that they have not reached your hands.

MOUNT ELGIN, October 3, 1857.

Inhabitants of Dereham.

I am now at home, among you, after being out of house and hold forty years, because of wrongs in Upper Canada ; and, but for printed records, all would be forgotten.

A year ago, I asked the people of Canada to countenance me : now, I, more especially, solicit your patronage ; and, with that, feel confident of being yet useful to my fellow-men.

During twelve months, I have addressed the Government ; and, now, close correspondence, finding all in vain, as you will think when the above is perused, with the two former printed papers.

When responsible government was obtained sixteen years ago, many believed that all was well ; but what said Doctor Dunlop ? " *Responsible government is a trap set by rogues, to catch fools,*" and, if I am to believe Canada newspapers, that has been verified. What should be done ? Just what I advised in 1818—that, for which I was persecuted. Thank God, I yet live ; and, although I have seen eighty summers, and am lame, feel confident of guiding you to good,—yet confident that this fine province may become the happiest spot on the habitable globe.

Will you listen ?

ROBT. F. GOURLAY.

MR. GOURLAY'S SPEECH.

PART SECOND.

Mr. Speaker,—But for the caprice,—or, shall I say ignorance, of your predecessor, my business here might have been closed last session. He, Sir,—the then Speaker, threw aside my petition presented by Mr. Merritt, as disrespectful to the House, and, what has been the consequence ?—My detention in Canada these last twelve months ? Yes, Sir, here I am, instead of being in Scotland whence I came to determine this business. This, Sir, is a matter of no small importance, and that you, and the Assembly may judge of it, I beg leave to read the petition in question. (See A, page 18.)

Sir:—having read the petition, I appeal to you and the House if a single word is improper ; or, in any way disrespectful. By and by, I shall have occasion to enlarge on this subject ; and, in the meantime, shall proceed to the main question which has brought me here.

In the year 1841, this House appointed a Committee to investigate my business, placed before it by Petition, and I shall now read the Report of that Committee. (See B, page 14.)

This Report was approved of, and by an unanimous vote, was laid, by address, before the Governor General, who signed it, and died within two days. After the funeral, the case was made known to the Administrator of the Government, who paid me £50 to account of expenses, with apology that more could not then be spared from the treasury.

Conceiving that all was now settled, I resolved to go to England,—there to lay the whole before the Imperial Parliament, and did proceed to Quebec, where it was expected the new Governor General would land and, by whom, I wished to have certain documents authenticated. After waiting two weeks at Quebec, it was reported that he would land at Boston, and thence proceed to Kingston, to which place I returned, there to see his Excellency. To my astonishment, I was served at Kingston with a "*Minute of Council*," withstanding the positions of the Assembly, which made it necessary for me to remain in Canada till Parliament was again in session, in order that the Assembly might sustain its positions. When Parliament met, I was at St. Catharines, and being in very feeble health, despatched to Mr. Neilson a Memorial drawing attention to my business, which I beg leave now to read. (See the "Neptunian.")

This Petition was declared by the Speaker to be "informal, and to contain improper language ;" whereupon Mr. Neilson, seconded by Doctor Dunlop, made apology for me as being weak in body and mind, and obtained for me a pension of £50 per annum, "in consideration of my losses and misfortunes."

No words can express my feelings on reading, in newspapers, this result,—finding myself pensioned as an object of pity ; and my stay of a year in Canada rewarded thus, instead of having the "Minute in Council" treated as it deserved; for, I was prepared to shew it off as infamous; and, indeed, had characterized it as "*false, frivolous, and vexatious,—mawkish, and impertinent.*"

Sir:—Should a Committee be appointed to enquire into details, I shall have no difficulty in shewing that these words are correct; and, now, I would call attention to the Speaker's conduct regarding Petitions. It is a fact which can be proved by reference to The Votes and Proceedings of the Imperial Parliament, that I have had more petitions printed therein than any other

individual, and never was any petition of mine objected to by any one. Here, however, in Canada, the Speaker interferes, again and again, and blasts my purposes. Here, too, there is a Committee which decides as to printing petitions. Early this session, Mr. Munro, on my request, moved that my petition, which procured for me this hearing, should be printed. It was important for me that it should be printed, in order that copies might be sent to my friends in the country who were disposed to aid me this year, as they did last year, with prayers that I should be heard at the bar; but, no! The Ministry were opposed to my being heard; and the printing of my petition was refused!! It could not be to save the cost of printing; for the petition was a short one; but it was to defeat my desire to be heard at the bar; and I appeal to you and every member of this House if the refusal was not shameful.

Sir:—I appealed to you and the House against the conduct of your predecessor, in setting aside my petition of last year; and, to this day, I appeal against the Speaker's conduct in the year 1842; but more especially against the conduct of those who gave way to the Speaker's declaration and set me down as an object of pity. Sir, Mr. Neilson and Doctor Dunlop were respectable men; and, I doubt not, meant well towards me; but they had no right whatever to act as they did. If my petition was faulty, it might have been withdrawn, and my business brought to notice by another: but what was done? ACommittee sat and reported that "Your Committee, in the present state of the session, have not thought it expedient to enter into any enquiry into the reasons that have prevented the address of this House to His Excellency of the 16th September, 1841, and the report thereon referred to, from being fully acted on," &c. The Committee did, in fact, do what it was not called to do; and neglected the chief matter,—shewing off the "*Minute in Council*" as it deserved.

Sir,—The inconsiderate doings of Messrs. Neilson and Dunlop, have, till this day, involved me in trouble; and it remains for this House to correct their errors;—to expose the baseness of the "Minute in Council;" and sustain the Report of 1841. I myself have lost no opportunity to do this. In 1843, I had a petition presented to the Assembly; but, that very day, the Ministry resigned.

In 1846, I had four petitions presented and printed in the journals without avail; and now, for the first time, I have opportunity to speak where I now am; and, here, Sir, I pledge myself to make all clear, if a Committee is appointed to listen to details.

The Report of 1841, recommended that the *Crown should repudiate the transaction by which I was persecuted to my ruin;* and that the Crown will do, I doubt not, when required by this House. It was further recommended, that the Legislature should *cause me to be compensated for losses sustained by the unwarrantable exercise of authority*:—and this, also, can be done. But, Sir, permit me to say, that, had I gone to England 1841, instead of being detained in Canada by the false "Minute in Council"—all would have been settled to my satisfaction. No doubt, the Crown would,there, have frowned down the villainous transaction by which I was persecuted; and, there, I could have proved what losses I had sustained. Here, I can only assert that, before coming to Canada, I never reckoned my yearly income less than £500—while I had, besides, provisions for my wife and children.

By false imprisonment in Canada, I not only lost hold of all property in Britain; but was involved in endless litigation:—nay more, finding myself without monied means on my return home after banishment, I went to London, borrowed £200 from a friend, and meant to enter as a student of law; but because of banishment, could not be received by the Benchers; and thus, ever since, ruined as a farmer, shut out from employment in law, and harrassed with litigation, 41 years of my life have been rendered, not only profitless but miserable. At this moment, I have nothing for it, but existence in a log-house on my land in the Township of Dereham—nothing for it, but my appeal for justice to this Honourable House.

CORRESPONDENCE RESUMED.

Sir Wm. Eyre having perused the accompanying publications, begs to return them to Mr. Gourlay, according to his request. (Case before the Legislature Nos. 1 and 2.)

Government House,
Toronto, 5th Sept. 1857.

(*Received on returning to Toronto, June* 1858.)

Rossin House, June 23, 1858.

Sir,—Being here prosecuting my suit before the Legislature, I beg leave to inclose, for your Excellency's perusal, two printed papers which were submitted to Sir Wm. Eyre and returned to me.

Your Excellency's obt. Servant,
ROBT. F. GOURLAY.

Sir Edmund Walker Head, Bart., &c. &c.

Government House,
Toronto, 23rd June, 1858.

Dear Sir,—I am directed by the Governor General to thank you for the papers you sent to him.

Your obt. Servant,
J. G. IRVINE.

R. F. Gourlay, Esq.

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156 Adelaide Street,
July 15, 1858.

Sir,—Your Excellency,—going from home,—I also went to the country, and returned to Toronto only yesterday.

Permit me, now, to call attention to the printed papers returned to me by Sir Wm. Eyre, and sent to your Excellency,23rd ultimo. It will there be seen that under date June 4, 1857, I was told by Mr. Pennefather that my letter of June 3rd, would be referred "*to the consideration of the Executive Council.*" Under date June 12, 1857, I was told by Mr. Pennefather, that, my "*letter of the 3rd, was, on the 4th instant, transferred by His Excellency to the Provincial Secretary, in order that it might be laid before the Executive Council for their advice thereon.*"

After your Excellency had sailed for England, I was informed by Mr. Pennefather under date July 22nd, 1857, directed by His Excellency, the Administrator of the Government, that "*the case is still before the Executive Council.*"

May I now beg to be informed if any decision is yet come to by the Council after the lapse of twelve months, and what "*advice*" if any, is given thereon.

I have the honour to be
Your Excellency's obt., servant,

Sir Edmund W. Head, Bart., &c. &c.
ROBT. F. GOURLAY.

(*Not replied to.*)

156, Adelaide Street,
July 17, 1858.

May it Please Your Excellency:

While waiting reply to my letter of 15th inst., I take opportunity to call to mind matters which, probably, never seriously arrested your attention ; but which, nevertheless, are very important.

On my first interview with Your Excellency, October, 1856, I spoke of emmigration, and suggested the re-issue of my queries, which, in 1817, gained the most valuable information of that time, viz., what is published in the first volume of my statistical account of Upper Canada.

You said you would refer the matter to the Bureau of Agriculture ; whose Secretary, forthwith, furnished me with books, and signified that these would supersede the need of what I had suggested.

Mr. Vankoughnet afterwards made a call on Township Councils to furnish him with lists of such persons—immigrants—as could be received and employed.

I was hopeful that this might be fol-

lowed with beneficial consequences to all parties :—immigrants and employers.

The Town Council of Dereham, also sanguine of good, made out a list of upwards of three hundred persons who could be received and employed ; but all proved in vain ; and, it appeared, that, Mr. Vankoughnet had engaged in a business with which he was not sufficiently acquainted.

On my second interview with Your Excellency, I alluded to this, and suggested a correspondence on the subject with Mr. Labouchere. More than that, I wrote to Your Excellency in England, under date July 11, 1857, and called the matter to mind ; but, from Your Excellency's reply, dated London, August 4, 1857, it was evident that my hint engaged no attention.

Let me now, therefore, press on Your Excellency's notice, this very important business ; and, in proof that I have long and earnestly paid attention to it, permit me to refer to a pamphlet deposited in the library of the Legislature, entitled "A RECORD OF EMIGRATION SOCIETIES," published 1829.

Your Excellency's
very humble servant,
ROBT. F. GOURLAY.

GOVERNOR'S SECRETARY'S OFFICE,
Toronto, 19th July, 1858.

SIR :—I am directed by His Excellency the Governor General, to acknowledge the receipt of your letter of 17th instant, and to thank you for your suggestions. His Excellency will send to the Library for the pamphlet you refer to.

I have the honour to be, Sir,
Your ob't Servant,
R. T. PENNEFATHER,
Governor's Secretary.

R. F. GOURLAY, Esq.